



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,113	10/22/2001	Mark W. Paulsen	P02248US2	5983

22885 7590 02/02/2004

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,113

Applicant(s)

PAULSEN, MARK W.

Examiner

Meredith C Petravick

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3671

DETAILED ACTION

1. In view of the Appeal Brief filed on 11/3/03, PROSECUTION IS HEREBY REOPENED. For the details see the rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

NOTE: Applicant's Appeal Brief was defective because it failed to properly state the grouping of the claims.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 31-36 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one

Art Unit: 3671

skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The table below contains claim limitations that are new matter and descriptions of the elements of the limitation from the specification. The claim limitations are different from what is described in the specification. Therefore, these limitations are new matter. New matter cannot be added to the specification.

Claim Limitation	Specification
“A frame of less than approximately six feet”; claim 31, line 2	“As shown in Fig. 5, a frame 40 is comprised of two 10 inch tall by $\frac{3}{4}$ inch wide by approximately 3-foot long rails 42 held parallel by cross-bar 44” (page 12, line 1-3) and “Thus, frame 40, approximately 3-foot long, extends the length of the original baler 18 approximately 3 feet, but allows an extension of the PTO shaft 36 as mentioned.” (page 12, line 15-18)
“each wheel of at least thirty-six inches” (claim 31, line 19 and claim 35, line 9)	“rake wheels 26 (approx. 4 feet in diameter)” (page 11, line 2) and “Rake wheels 26 are approximately 48 inches in diameter.” (page 11, line 18)
“wheel rake, frame being less than 8 feet wide” claim 31, line 25	“For example, wing members 22 and 24 of rake 20 are approximately six foot in length.”

Art Unit: 3671

	(page 11, lines 16-17)
“the wheels of the wheel rake at least two feet off the ground” claim 31, line 26	Not mentioned at all in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 depends from claim 2, which was canceled. Therefore, it is impossible to tell what applicant is trying to claim, and claim 3 has not been treated on the merits.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4-5, 8-20, 22-25 and 28-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis 5,404,702 in view of Allen 4,932,197 and Buck 4,753,063.

Lewis discloses a rake attachment on a PTO-drive large bale baler (23) including:

- a frame (60) having a front end and a rear end along a longitudinal axis

Art Unit: 3671

- a passageway between the front and rear ends for a PTO shaft (Column 4, lines 27-29)
- the front end including a hitch (65, Column 4, lines 27-29) for connection to a tractor
- the rear end including a connection to a large baler (Column 4, lines 24-27)
- arms (Fig. 1) attached to the frame member for supporting rakes
- a mechanism (lift mechanism 10, Columns 5, lines 7-9) operably connected between the frame and rake arm for moving the rakes between a working and stored position

However, in the detailed description Lewis describes attaching powered rakes to the arms instead of non-powered, wheel rakes as claimed. Also, Lewis fails to disclose using an automatic actuator instead of a manual mechanism to raise the rakes between a working and stored position. However, Lewis also states, "Since the "base" of the invention is the frame, this portion of the apparatus will be described first. It is also anticipated that the "base" or extension frame will be manufactured and generally sold without windrow rakes. This is because most farmers will have hay rakes that can be attached to the extension frame and they will want to use existing equipment. (Column 4, lines 4-10)" Therefore, even though Lewis does not specifically describe in detail attaching non-powered, wheel rakes to the frame, Lewis teaches that generic hay rakes can be attached to the frame.

Like Lewis, Allen also discloses a frame to which hay rakes are attached. Unlike Lewis, Allen discloses two embodiments. The first with non-powered wheel rakes and the second with powered rakes (650). The powered rakes are powered by a hydraulic motor (690).

Art Unit: 3671

Buck discloses non-powered wheel rakes, which are a type of commonly known hay rakes. The wheel rakes (52) are attached to arm (30) by an adjustable mounting (42). The wheel rakes are suspended from a beam (50) so that they move over a range independently from the frame in the working position (Column 5, lines 25-30). The arm (30) is attached to the frame (25) by an actuator (60). The actuator provides automatic moving of the arms between a raised inward stored position (Fig. 5) and a lowered outward working position (Fig. 1).

Given the suggestion in Lewis that any type of hay rakes could be used and the teaching in Allen that wheel rakes could be used alternately with powered rakes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the manual mechanism and arms with powered rakes of Lewis with automatic actuator and arms with non-powered wheel rakes like those in Buck, since Lewis suggests that previously owned hay rakes could be added to the base frame and a automatic actuator increase operator efficiency.

In regards to claims 10-12, the combination discloses the claimed device except for the angle of the rake arms to the frame being between 20-60 degrees, 35-50 degrees, and 45 degrees. The angle of the rake arms to the frame is a design choice that depends on the width of the material being raked. Note that the specification states, "Also, it is to be understood that the size and operating width of the rake 20 can vary by design.(page 20, lines 6-7)"

In regards to claims 31 and 35, the dimensions of the frame, wheel rakes, wheel rake frame, and the height of the wheel rake above the ground in the transport position are obvious design choices. No criticality is given in the specification.

Art Unit: 3671

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Allen and Buck as applied to claim 1 above, and further in view of Kelderman 5,155,986.

The combination discloses the claimed device except for using bolts on the rear connection member in order to secure the baler to the rake attachment.

Kelderman discloses that it is known in the art to use bolts (67) to secure two items together (Column 5, line 28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the frame to the baler in the combination with bolts as in Kelderman, in order to secure the frame to the baler.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Allen and Buck as applied to claim 18 above, and further in view of Kuehn 4,947,631

The combination discloses the claimed device except for mounting means that allow the rake wheels to adjust the width of the rake means and the height of the rake wheels according to the operating conditions.

Kuehn discloses that it is known in the art to provide means to adjust the height of the wheel rake (column 3, lines 24-26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rake attachment of the combination with the means for adjusting the height of the rake wheel as discloses in Kuehn, in order to adjust the rake for varying operating conditions.

Art Unit: 3671

10. Claim 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Allen and Buck as applied to claim 25 above, and further in view of Trenkamp et al., 5,052,170.

The combination discloses the claimed device except for a shredder being attached to the baler.

Trenkamp et al. discloses that it is known in the art to attach a shredder (10) to the front of a baler in order to process crops in one pass (abstract, lines 16-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of the combination with the shredder attachment of Trenkamp et al., in order to further process the crops in a single pass on the field.

11. Claims 1, 4-5, 8-20,22-25 and 28-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis 5,404,702 in view of Buck 4,753,063 and the combined teaching of Caraway 4,214,428, Lutz 5,987,864, Fell et al. 5,127,217.

Lewis discloses a rake attachment on a PTO-drive large bale baler (23) including:

- a frame (60) having a front end and a rear end along a longitudinal axis
- a passageway between the front and rear ends for a PTO shaft (Column 4, lines 27-29)
- the front end including a hitch (65, Column 4, lines 27-29) for connection to a tractor
- the rear end including a connection to a large baler (Column 4, lines 24-27)
- arms (Fig. 1) attached to the frame member for supporting rakes

Art Unit: 3671

- a mechanism (lift mechanism 10, Columns 5, lines 7-9) operably connected between the frame and rake arm for moving the rakes between a working and stored position

However, in the detailed description Lewis describes attaching powered rakes to the arms instead of non-powered, wheel rakes as claimed. Also, Lewis fails to disclose using an automatic actuator instead of a manual mechanism to raise the rakes between a working and stored position. However, Lewis also states, "Since the "base" of the invention is the frame, this portion of the apparatus will be described first. It is also anticipated that the "base" or extension frame will be manufactured and generally sold without windrow rakes. This is because most farmers will have hay rakes that can be attached to the extension frame and they will want to use existing equipment. (Column 4, lines 4-10)" Therefore, even though Lewis does not specifically describe in detail attaching non-powered, wheel rakes to the frame, Lewis teaches that generic hay rakes can be attached to the frame.

Caraway, Lutz and Fell et al. all describe rakes that are attached to tractors and balers. All are used to move crops into windrows in order to windrow and bale in one pass. However, Caraway and Lutz used non-powered wheel rakes while Fell et al. uses powered rakes. These references

Buck discloses non-powered wheel rakes, which are a type of commonly known hay rakes. The wheel rakes (52) are attached to arm (30) by an adjustable mounting (42). The wheel rakes are suspended from a beam (50) so that they move over a range independently from the frame in the working position (Column 5, lines 25-30). The arm (30) is attached to the frame

Art Unit: 3671

(25) by an actuator (60). The actuator provides automatic moving of the arms between a raised inward stored position (Fig. 5) and a lowered outward working position (Fig. 1).

Given the suggestion in Lewis that any type of hay rakes could be used and the teaching of Caraway, Lutz and Fell et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the manual mechanism and arms with powered rakes of Lewis with automatic actuator and arms with non-powered wheel rakes like those in Buck, since Lewis suggests that previously owned hay rakes could be added to the base frame and a automatic actuator increase operator efficiency.

In regards to claims 10-12, the combination discloses the claimed device except for the angle of the rake arms to the frame being between 20-60 degrees, 35-50 degrees, and 45 degrees. The angle of the rake arms to the frame is a design choice that depends on the width of the material being raked. Note that the specification states, "Also, it is to be understood that the size and operating width of the rake 20 can vary by design.(page 20, lines 6-7)"

In regards to claims 31 and 35, the dimensions of the frame, wheel rakes, wheel rake frame, and the height of the wheel rake above the ground in the transport position are obvious design choices. No criticality is given in the specification.

12. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Caraway, Lutz, Fell et al. and Buck as applied to claim 1 above, and further in view of Kelderman 5,155,986.

The combination discloses the claimed device except for using bolts on the rear connection member in order to secure the baler to the rake attachment.

Art Unit: 3671

Kelderman discloses that it is known in the art to use bolts (67) to secure two items together (Column 5, line 28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the frame to the baler in the combination with bolts as in Kelderman, in order to secure the frame to the baler.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Caraway, Lutz, Fell et al. and Buck as applied to claim 18 above, and further in view of Kuehn 4,947,631

The combination discloses the claimed device except for mounting means that allow the rake wheels to adjust the width of the rake means and the height of the rake wheels according to the operating conditions.

Kuehn discloses that it is known in the art to provide means to adjust the height of the wheel rake (column 3, lines 24-26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rake attachment of the combination with the means for adjusting the height of the rake wheel as discloses in Kuehn, in order to adjust the rake for varying operating conditions.

14. Claim 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Caraway, Lutz, Fell et al. and Buck as applied to claim 25 above, and further in view of Trenkamp et al., 5,052,170.

Art Unit: 3671

The combination discloses the claimed device except for a shredder being attached to the baler.

Trenkamp et al. discloses that it is known in the art to attach a shredder (10) to the front of a baler in order to process crops in one pass (abstract, lines 16-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of the combination with the shredder attachment of Trenkamp et al., in order to further process the crops in a single pass on the field.

Response to Arguments

15. Applicant's arguments filed 11/3/03 have been fully considered but they are not persuasive.

In the appeal brief filed 11/3/03, applicant argues 1) that the rejection under 35 U.S.C. 112, 2nd paragraph is improper, 2) that the combination of Lewis and Sligter do not discloses the limitation regarding the actuator in claim 1 and 3) that the combination of Lewis and Sligter is not obvious

In regards to applicant's first argument, please note that the rejection in under 35 U.S.C. 112, 1st paragraph and not the 2nd paragraph. Applicant argues that the this rejection is improper because the specification supports the limitations cited above. For example, Applicant argues that the limitation that the frame is "approximately six feet" is supported in the specification by a disclosure of that the frame is approximately 3 feet. However, applicants claim limitations are broader in scope than what is disclosed in the specification. A frame that is approximately 3 feet is not the same as one that is twice as large. Therefore, the rejections remain.

Art Unit: 3671

In regards to applicant's second argument, this argument is now moot. The details of the actuator are now specifically addressed in the new rejection above.

In regards to applicant's third argument, please see the new rejection above, which specifically address this argument.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



**Meredith Petravick
Patent Examiner
Group Art Unit 3671**

January 23, 2004